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January 8, 2025

VIA ECF

Honorable Steven L. Tiscione, U.S.M.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: AutoExpo Ent. Inc., et al. v. Omid Elyahou et al.
Case No.: 2:23-cv-09249 (OEM) (ST)

Dear Judge Tiscione:

We represent Plaintiff AutoExpo Ent. Inc. (“AutoExpo”) and the other plaintiffs (collectively, “Plaintiffs”) in the above-action. Defendants Omid Elyahou, SimpSocial, LLC and United Citizens Warranty LLC (collectively the “Elyahou Defendants”) and Defendants Avi Eitan, Fifty Seven Consulting Corp. d/b/a Certified Auto Group a/k/a Certified Performance Motors and Fazeeda Kassim (collectively the “Certified Defendants”) made separate motions to dismiss AutoExpo’s claims under the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq. (“ERISA”), on behalf of AutoExpo’s 401K plan (the “Plan”) and its participants, as alleged in the Amended Complaint, seeking, *inter alia*, injunctive and equitable relief to undo an improper \$521,000 transaction made by Elyahou, as Plan Trustee, in November 2022 in contravention of the Plan and in breach of his fiduciary duties to the Plan.¹

Plaintiff AutoExpo writes to respectfully request another two-week extension for its time to submit its opposition to Defendants’ respective motions to dismiss the ERISA claims, *i.e.*, from the current deadline of January 10, 2025 to January 24, 2025 (along with a commensurate extension for Defendants’ reply). This is Plaintiffs’ second request for an extension of time to file its opposition. The prior request was made on December 24, 2024 and granted on December 26, 2024. This request is made because the undersigned received an unexpected order to show cause on December 26, 2024 while on vacation and two other dispositive motions. One of my colleagues who has been working on this matter was out for two weeks and another has also had to take some time due to the anticipated birth of his first child in a few weeks. These exigencies have left us short on staff and necessitates this request. We request the Court’s accommodation to ensure that Defendants’ motions are opposed efficiently, effectively and completely.

¹ As this Court is aware, Defendants submitted a motion to dismiss the original Complaint July 1, 2024 (Dkt. 38-39). Besides adding a related party, the only substantive difference between the original Complaint (Dkt. 1) and the Amended Complaint (Dkt. 48) is the addition of the ERISA claims. Defendants’ current motion and AutoExpo’s opposition will supplement the original motion (Dkt. 38-39).

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Prior to the submission of this letter request, Plaintiff AutoExpo, on January 7, 2025, sought Defendants' consent but have not yet received a response from either the Elyahou Defendants or the Certified Defendants. As such, Plaintiffs must make this request without having obtained Defendants' consent.

We thank the Court for its attention to this matter.

Respectfully submitted,

Michael C. Mulè

Michael C. Mulè

cc: Counsel of Record